UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CROWDRx, INC., a New York corporation, **Plaintiff,** **v.** **NATIONAL EVENT SERVICES, INC., a New Hampshire corporation, FESTIVAL MANAGEMENT SERVICES, LLC , a Pennsylvania limited liability company, TICKETTAKER, INC. , a Pennsylvania corporation, and CARL MONZO, an individual residing in Pennsylvania** **Defendants.**	X : : : : : : : : : : : : : X	**Case No.** 17-CV-961 **JURY DEMAND**

COMPLAINT

CrowdRx, Inc. ("CrowdRx" or "Plaintiff"), by its undersigned attorneys, for its Complaint against defendants National Event Services, Inc., Festival Management Services, LLC, Tickettaker, Inc., and Carl Monzo (all collectively, "Defendants"), alleges as follows:

NATURE OF ACTION

1. In this action, CrowdRx seeks injunctive relief, lost profits, damages, costs, and attorneys' fees for Defendants' acts of willful trademark infringement, false designation of origin, false descriptions, unfair competition, deceptive trade practices, and intent to deceive under the federal Lanham Act, the statutes of the State of New York and the common law, together with a declaration that CrowdRx is the sole and rightful owner of the CROWDRX trademark (the "Mark").

JURISDICTION AND VENUE

2. This action arises, at least in part, under the federal Lanham Act. Accordingly, this Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338.

3. The words and actions of Defendants have created an actual controversy by and among Plaintiff and Defendants as to the ownership of the Mark, and Plaintiff seeks a declaration with respect to the controversy. Accordingly, this Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

4. There is complete diversity among the Plaintiff and all of the Defendants, and the amount in controversy in this action exceeds $75,000. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332.

5. Upon information and belief, Defendants regularly and systematically advertise and solicit business in New York, regularly and systematically contract to supply goods and/or services and transact business in New York and within this judicial district, and the tortious acts of Defendants complained of in this Complaint, including, without limitation, Defendants' infringing activities, have been and continue to be committed, and have caused harm to Plaintiff in New York and within this judicial district. Accordingly, personal jurisdiction exists over Defendants pursuant to CPLR §§ 301 and 302.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

THE PARTIES

7. CrowdRx is a corporation organized and existing under the laws of the State of New York, with its principal place of business in New York, New York.

8. Upon information and belief, National Event Services, Inc. ("NES"), is a corporation organized and existing under the laws of the State of New Hampshire, with its principal place of business in Delaware County, Pennsylvania.

9. Upon information and belief, Festival Management Services, LLC ("FMS"), is a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business in Delaware County, Pennsylvania.

10. Upon information and belief, Tickettaker, Inc. ("TTI"), is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business in Delaware County, Pennsylvania.

11. Upon information and belief, Carl Monzo ("Monzo") is an individual residing in Delaware County, Pennsylvania.

12. Upon information and belief, Monzo is an officer, director and/or principal of NES, FMS, and TTI, and Monzo aided, abetted, controlled, actively directed and caused each of NES, FMS, and TTI to commit the acts complained of herein.

GENERAL ALLEGATIONS

13. CrowdRx is a New York corporation, formed on or about August 27, 2014.

14. CrowdRx has been using the CrowdRx name as a trade name since its formation.

15. CrowdRx is in the business of, *inter alia*, providing first aid and medical services at sporting and entertainment events and other public gatherings (the "Services").

16. Dr. Andrew Bazos ("Bazos") was a founder of CrowdRx and remains an officer of CrowdRx.

17. CrowdRx has been using the CrowdRx mark (the "Mark") as a trademark since it first began offering the Services.

18. CrowdRx applied for a U.S. Trademark Registration for the Mark on September 11, 2014, Serial Number 86-392166 (the "Application").

19. The Application matured into a U.S. Trademark Registration, Registration No. 4,928,349 (the "Registration").

20. CrowdRx is the record owner of the Registration.

21. The Registration is valid and subsisting.

22. CrowdRx filed the Application pursuant to §1(b) of the Lanham Act, based on an "intent to use" the Mark in commerce. Pursuant to the Lanham Act § 1(b) *et seq.*, the date of filing of an "ITU" application serves as the constructive date of first use of the Mark in commerce.

23. CrowdRx has used the Mark in commerce continually since the data of actual first use, and the Mark has never been abandoned by reason of non-use or otherwise.

24. Monzo, through NES, FMS, and/or TTI, offered services similar to CrowdRx's services.

25. On or about January 22, 2015, by written shareholder agreement (the "Agreement"), Monzo and Bazos formed CrowdRx, Inc., a Pennsylvania corporation ("CrowdRx Pa"), for purposes of providing services similar to CrowdRx's Services.

26. During the time CrowdRx Pa operated, it used the Mark pursuant to license from CrowdRx.

27. Alternatively, to the extent a court of competent jurisdiction may find that CrowdRx contributed the Mark to CrowdRx Pa, CrowdRx contributed the Mark with the understanding and agreement (from Monzo and CrowdRx Pa) that upon termination of the Agreement and/or dissolution of CrowdRx Pa, CrowdRx would be the owner of the Mark.

28. Prior to the formation of CrowdRx Pa, Monzo, NES, FMS, and/or TTI had never used the Mark.

29. In early 2016, disputes arose between Monzo and Bazos regarding the operation of CrowdRx Pa.

30. To resolve the dispute, Monzo and Bazos agreed to terminate the Agreement, "separate," and cease all operations of CrowdRx Pa, except as may be necessary for the "winding up" of CrowdRx Pa.

31. To memorialize the agreement to terminate the Agreement, separate, and cease operations of CrowdRx Pa, Crowd Rx, Bazos, and certain other related entities, on the one hand, and Monzo, NES, FMS, and TTI, on the other hand, entered into a written Memorandum of Understanding ("MOU").

32. The MOU specified that the effective date of the termination, separation, and cessation of operations would be March 31, 2016 (the "Effective Date").

33. Upon reaching the agreement to terminate the Agreement, separate, and cease operations of CrowdRx Pa and/or as of the Effective Date, the license from CrowdRx to CrowdRx Pa terminated and CrowdRx Pa ceased to have any right to use the Mark.

34. Alternatively, to the extent a court of competent jurisdiction may find that CrowdRx had contributed the Mark to CrowdRx Pa, upon reaching the agreement to terminate the

Agreement, separate, and cease operations of CrowdRx Pa and/or as of the Effective Date, as memorialized in the MOU, CrowdRx was and is the owner of the Mark.

35. Notwithstanding the terms of the Agreement and the MOU (and/or the termination of the license), Monzo, NES, FMS, and/or TTI continue to use the Mark in commerce.

36. Monzo, NES, FMS, and/or TTI's continued use of the Mark in commerce is creating a likelihood of confusion and has created actual confusion (such continued use and actual confusion being evidenced by, *inter alia*, CrowdRx's receipt of misdirected mail intended for Monzo, NES, FMS, and/or TTI).

37. Notwithstanding the terms of the Agreement and the MOU (and/or the termination of the license), Monzo, NES, FMS, and/or TTI continue to claim ownership and/or the right to use the Mark, and/or to otherwise dispute CrowdRx's ownership and exclusive right to control the use of the Mark.

COUNT I
DECLARATION OF OWNERSHIP

38. CrowdRx repeats and realleges each and every allegation contained in the prior paragraphs hereto and the same are incorporated herein and made a part hereof.

39. As among the parties to this litigation and all other related or affiliated persons and entities, CrowdRx was the first to use the Mark (either by actual first use or by date of constructive first use as conferred by the Registration based on the ITU Application.)

40. By virtue of its first and prior use, CrowdRx is the owner of the Mark.

41. CrowdRx is the record owner of the Registration and as such is legally presumed to be the owner of the Registration and all rights in the Mark.

42. CrowdRx has always been the record owner of the Registration and has always been the owner of the Mark.

43. Whatever right CrowdRx Pa may have had to use the Mark (if any), such right has been terminated and revoked.

44. Alternatively, to the extent a court of competent jurisdiction may find that CrowdRx had contributed the Mark to CrowdRx Pa, upon reaching the agreement to terminate the Agreement, separate, and cease operations of CrowdRx Pa and/or as of the Effective Date, as memorialized in the MOU, CrowdRx is now the owner of the Mark.

45. Monzo, NES, FMS, and/or TTI have never had the right to use the Mark and have never been an owner of the Mark.

46. Monzo, NES, FMS, and/or TTI, through their words and deeds, including the continued use of the Mark and the rejection of the MOU, have asserted ownership and/or the right to use the Mark.

47. Monzo, NES, FMS, and/or TTI, through their words and deeds, have created an actual controversy as to the ownership of and right to use the Mark.

48. Based on the existence of an actual controversy relating to the ownership and right to use the Mark, CrowdRx is entitled to and does hereby seek a declaration that it is the owner of the Mark and the Registration, together with the right to exclude others, including Defendants, from using the Mark.

COUNT II
REGISTERED TRADEMARK INFRINGEMENT (LANHAM ACT § 32)

49. CrowdRx repeats and realleges each and every allegation contained in the prior paragraphs hereto and the same are incorporated herein and made a part hereof.

50. The Registration constitutes prima facie evidence of the "validity of the registered mark and of the registration of the mark, of the owner's ownership of the mark, and of the owner's exclusive right to use the registered mark in commerce on or in connection with the goods or services specified in the certificate." 15 U.S.C. §1057(b).

51. Defendants' offering of services using the identical "CrowdRx" mark (the "Infringing Mark") creates the likelihood of confusion with CrowdRx, its Registration, and its offering of services under the registered Mark.

52. The Infringing Mark is confusingly similar - and in fact, identical - to the registered Mark in sight, sound and connotation.

53. CrowdRx's registered Mark is a strong trademark, based on both its inherent strength and its commercial strength.

54. CrowdRx's services are services which are sold, distributed, furnished and/or advertised to the same or similar classes of purchasers as Defendants' services.

55. Defendants were aware of CrowdRx and of CrowdRx's use and ownership of its registered Mark prior to the time Defendants commenced use of the Infringing Mark.

56. Upon information and belief, based upon, without limitation, Defendants' knowledge of CrowdRx and the MOU, Defendants' use of the Infringing Mark constitutes willful trademark infringement.

57. Upon information and belief, Defendants continue to use the Infringing Mark with the intent of causing confusion among consumers and thereby benefiting from CrowdRx's favorable reputation and goodwill.

58. As a result of Defendants' conduct, actual confusion has occurred.

59. As a result of Defendants' conduct, a strong likelihood of confusion, mistake, or deception exists, and many persons familiar with CrowdRx's registered Mark, its reputation and favorable goodwill, are likely to buy Defendants' services in belief that Defendants are affiliated with or sponsored by CrowdRx and/or that the services sold by Defendants originate from CrowdRx or otherwise authorized or sponsored by CrowdRx.

60. By virtue of Defendants' conduct, Defendants are engaged in infringement of CrowdRx's registered Mark, in violation of the Lanham Act § 32, 15 U.S.C. § 1114(1), by using a mark wherein such use is likely to cause confusion, or to cause mistake or to deceive.

61. Upon information and belief, Defendants intend to make, and have made, unlawful gains and profits from such unlawful infringement and, by reason thereof, CrowdRx has been and will be deprived of rights and profits which otherwise would have come to CrowdRx, but for such infringements.

62. CrowdRx has no adequate remedy at law for the injury alleged in this Count. The injury is intangible in nature and not capable of being fully measured or valued in terms of money damages. Further, the injury is of a continuing nature and will continue to be suffered so long as Defendants continue its wrongful conduct.

63. Defendants' acts are willful, malicious and wanton and Defendants will continue its acts of willful infringement unless enjoined by this Court.

64. Notwithstanding the inadequacy of and the difficulty of presently fully ascertaining CrowdRx's monetary damages caused by Defendants' wrongful conduct, CrowdRx is informed and believes and, based upon such information and belief, alleges that said conduct has resulted in irreparable, direct and proximate damages to CrowdRx. CrowdRx seeks leave of this Court to amend its complaint to allege the full nature and

extent of said monetary damages, if and when, and to the extent the damages are ascertained.

COUNT III
TRADEMARK INFRINGEMENT, FALSE DESIGNATION OF ORIGIN, FALSE DESCRIPTION, AND UNFAIR COMPETITION (LANHAM ACT § 43(a))

65. CrowdRx repeats and realleges each and every allegation contained in the prior paragraphs hereto, and the same are incorporated herein and made a part hereof.

66. The Mark is inherently distinctive.

67. The Mark has acquired distinctiveness and a secondary meaning.

68. Defendants' offering of services using the Infringing Mark creates the likelihood of confusion with CrowdRx, its Mark, and its offering of services under the Mark.

69. The Infringing Mark is confusingly similar - and in fact, identical - to the Mark in sight, sound and connotation.

70. CrowdRx's Mark is a strong trademark, based on both its inherent strength and its commercial strength.

71. CrowdRx's services are services which are sold, distributed, furnished and/or advertised to the same or similar classes of purchasers as Defendants' services.

72. Defendants were aware of CrowdRx and of CrowdRx's use and ownership of its Mark prior to the time Defendants commenced use of the Infringing Mark.

73. Upon information and belief, based upon, without limitation, Defendants' knowledge of CrowdRx and the MOU, Defendants' use of the Infringing Mark constitutes willful trademark infringement.

74. Upon information and belief, Defendants continue to use the Infringing Mark with the intent of causing confusion among consumers and thereby benefiting from CrowdRx's favorable reputation and goodwill.

75. As a result of Defendants' conduct, actual confusion has occurred.

76. The acts and conduct of Defendants are willful, unfair, untrue and deceptive, in that they tend to mislead, deceive and confuse, and have had and continue to have the result of misleading, deceiving and confusing the public to believe that Defendants and/or its Infringing Mark is affiliated with, sponsored or controlled by CrowdRx. As a consequence, Defendants attempt to trade upon, and gain public acceptance and other benefits from CrowdRx's favorable reputation, which has accordingly, been placed at risk by Defendants' illegal acts and conduct.

77. The acts of Defendants constitute infringement of the Mark, and the use of a false designation of origin, false representation, and unfair competition, by inducing the erroneous belief that Defendants and/or their Infringing Mark are in some manner affiliated with, originate from, or are sponsored by CrowdRx, and by misrepresenting the nature and/or origin of Defendants' services, all in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a).

78. The acts of Defendants have caused irreparable harm and damage to CrowdRx and will continue to cause irreparable harm to CrowdRx, and have caused and will continue to cause CrowdRx to suffer monetary damage in an amount thus far not determined.

79. CrowdRx has no adequate remedy at law for the injury alleged in this count, and said injury is, in part, intangible in nature and not capable of being fully measured or valued entirely in terms of monetary damages.

80. Notwithstanding the inadequacy of and the difficulty of presently fully ascertaining CrowdRx's monetary damages caused by Defendants' wrongful conduct, CrowdRx is informed and believes and, based upon such information and belief, alleges that said conduct has resulted in irreparable, direct and proximate damages to CrowdRx. CrowdRx seeks leave of this Court to amend its complaint to allege the full nature and extent of said monetary damages if, when and to the extent the damages are ascertained.

COUNT IV
LIKELIHOOD OF INJURY TO BUSINESS REPUTATION OR DILUTION
(NY Gen. Bus. Law § 360-l)

81. CrowdRx repeats and realleges each allegation contained in the prior paragraphs hereto and the same are incorporated herein and made a part hereof.

82. The forgoing acts of Defendants have created and will create a likelihood of injury to the public image and business reputation of CrowdRx.

83. The forgoing acts of Defendants have created and will create a likelihood of dilution of CrowdRx's Mark.

84. CrowdRx's Mark is extremely strong, inherently strong and distinctive, and has acquired distinctiveness and a secondary meaning.

85. Defendants appropriated CrowdRx's Mark by using the Infringing Mark, which is confusingly and substantially similar - in fact, identical - to CrowdRx's Mark.

86. The forgoing acts of Defendants will create a likelihood of dilution by blurring, in that Defendants' use of their Infringing Mark will cause CrowdRx's Mark to lose its ability to serve as a unique identifier of CrowdRx's services.

87. Upon information and belief, CrowdRx's services are of superior quality as compared to Defendants' services and thus, the forgoing acts of Defendants will create a likelihood of dilution by tarnishment, in that Defendants' Infringing Mark and Defendants' inferior services will be associated with CrowdRx.

88. Based on the foregoing, Defendants have violated New York Gen. Bus. Law § 360-l, for which CrowdRx is entitled to injunctive relief.

COUNT V
USE OF NAME WITH INTENT TO DECEIVE
(NY Gen. Bus. Law § 133)

89. CrowdRx repeats and realleges each allegation contained in the prior paragraphs hereto and the same are incorporated herein and made a part hereof.

90. Defendants use the Infringing Mark in commerce.

91. Defendants were aware of CrowdRx and of CrowdRx's use of its Mark prior to the time Defendants commenced use of the Infringing Mark.

92. Upon information and belief, Defendants adopted and use the Infringing Mark with the intent of causing confusion among consumers with the purpose of benefitting from CrowdRx's reputation and goodwill.

93. Upon information and belief, Defendants adopted and use the Infringing Mark in bad faith.

94. Upon information and belief, Defendants adopted and use the Infringing Mark with the intent to cause confusion and to deceive the public.

95. Defendants' use of the Infringing Mark has created a likelihood of confusion and actual confusion.

96. The foregoing acts of Defendants constitute a violation of New York Gen. Bus. Law § 133, for which CrowdRx is entitled to injunctive relief.

COUNT VI
COMMON LAW INFRINGEMENT AND UNFAIR COMPETITION

97. CrowdRx repeats and realleges each allegation contained in the prior paragraphs hereto and the same are incorporated herein and made a part hereof.

98. Upon information and belief, the acts of Defendants were committed willfully, intentionally, and with bad faith.

99. Upon information and belief, Defendants intentionally appropriated CrowdRx's Mark with the intent of causing confusion, mistake and deception as to the source of its Infringing Mark and the services provided thereunder, with the intent to palm-off its Infringing Mark as that of CrowdRx and to misappropriate the efforts and good will of CrowdRx.

100. The acts of Defendants have created a likelihood of confusion.

101. The acts of Defendants, including Defendants' use of the Infringing Mark, constitute trademark infringement, in violation of the common law of the State of New York.

102. The acts of Defendants, including Defendants' use of the Infringing Mark, constitute unfair competition, in violation of the common law of the State of New York.

103. The foregoing acts of Defendants have injured and will continue to injure CrowdRx, by depriving it of sales of its genuine services, by injuring its business reputation, and by passing off Defendants' Infringing Mark as CrowdRx's Mark, all in violation of the common law of the State of New York.

104. Defendants' acts have caused irreparable harm and damage to CrowdRx and have caused CrowdRx monetary damage in an amount thus far not determined, for which CrowdRx is entitled to its actual damages, Defendants' profits, punitive damages, attorneys' fees and costs.

105. CrowdRx has no adequate remedy at law.

WHEREFORE, CrowdRx demands judgment against Defendants as follows:

A. For a declaration that CrowdRx is the owner of the Mark and the Registration, and that Defendants, acting collectively or individually, have no right to use the Mark;

B. That Defendants' conduct infringes CrowdRx's registered Mark, in violation of Lanham Act § 32, 15 U.S.C. § 1114;

C. That Defendants' conduct infringes CrowdRx's Mark, falsely designates the origin of Defendants' services, falsely describes such services, and unfairly competes with CrowdRx, all in violation of Lanham Act § 43(a), 15 U.S.C. § 1125;

D. That Defendants' conduct creates a likelihood of dilution and injury to CrowdRx's business reputation in violation of New York Gen. Bus. Law § 360-l;

E. That Defendants used the Infringing Mark with the intent to cause confusion and to deceive the public in violation of New York Gen. Bus. Law § 133;

F. That Defendants' have injured CrowdRx by depriving it of sales of its genuine services, by injuring its business reputation, and by passing off Defendants' Infringing Mark as CrowdRx's Mark, all in violation of the common law of the State of New York;

G. That Defendants' and their agents, officers, directors, servants, employees, attorneys, their successors and assigns, and all others in active concert or participation with

Defendants be preliminarily and permanently enjoined from directly or indirectly:

a. Using CrowdRx's Mark, or any other marks which are similar to or are colorable imitations of the Mark, alone or as a part of, or together with, any other designs, word or words, trademark, service mark, trade name, trade dress or other business or commercial designation or any logo, symbol or design;

b. Committing any act which, in and of itself, or from the manner or under the circumstances in which it is done amounts to false designation of origin, false description or false representation of Defendants' services; and

c. Otherwise unfairly competing with CrowdRx or committing dilution or infringement of CrowdRx's rights;

H. That the Court issue an Order directing Defendants to file with the Court and serve on CrowdRx, within thirty (30) days after the service on Defendants of such injunctions, a report in writing and under oath, setting forth in detail the manner and form in which Defendants have complied with the injunction;

I. That the Court award judgment in favor of CrowdRx for the damages sustained by it and the profits made by Defendants as a result of Defendants' wrongful conduct;

J. That the Court award judgment in favor of CrowdRx in the amount of treble damages;

K. That the Court award judgment against Defendants for the full costs of this action, including reasonable attorneys' fees;

L. That the Court award to CrowdRx punitive damages sufficient to deter Defendants from committing such willful acts of infringement in the future;

M. That this Court require a full and complete accounting of all monies received by Defendants as a result of the sales under the Infringing Mark;

N. For interest on all amounts found to be due to CrowdRx from Defendants, at the prevailing rate, from the date said amounts or any part thereof became or become due.

O. That the Court require Defendants to notify his commercial associates, suppliers and customers of said Order;

P. That the Court order such other, further and different relief as the nature of this action may require and that the Court may deem just and proper; and

Q. That the Court retain jurisdiction of this action for the purpose of enabling CrowdRx to apply to the Court, at any time, for such further orders and directions as may be necessary or appropriate for the interpretation or execution of any order entered in this action, for the modification of any such order, for the enforcement or compliance therewith and for the punishment of any violations thereof.

JURY TRIAL DEMANDED

CrowdRx hereby demands a jury trial of all issues so triable.

Dated: February 8, 2017
Scarsdale, New York

Respectfully submitted:

Robert B. Golden (RG-6157)
Jeffrey M. Rollings (JR-6940)
Lackenbach Siegel LLP
Lackenbach Siegel Building
1 Chase Road
Scarsdale, New York 10583
914-723-4300
914-723-4301 fax
rgolden@LSLLP.com

Attorneys for Plaintiff CrowdRx, Inc.